No. 111 Original

IN THE SUPREME COURT OF THE UNITED STATES
October Term, 1992

STATE OF DELAWARE,

Plaintiff,

STATES OF TEXAS, ALABAMA, ALASKA, ARIZONA, ARKANSAS, CALIFORNIA, COLORADO, CONNECTICUT, FLORIDA, GEORGIA, HAWAII, IDAHO, ILLINOIS, INDIANA, IOWA, KANSAS, LOUISIANA, MAINE, MARYLAND, MICHIGAN, MINNESOTA, MISSISSIPPI, MISSOURI, MONTANA, NEBRASKA, NEVADA, NEW HAMPSHIRE, NEW JERSEY, NEW MEXICO, NORTH CAROLINA, NORTH DAKOTA, OHIO, OKLAHOMA, OREGON, RHODE ISLAND, SOUTH CAROLINA, SOUTH DAKOTA, TENNESSEE, UTAH, VERMONT, WASHINGTON, WEST VIRGINIA, WISCONSIN, AND WYOMING, THE COMMONWEALTHS OF KENTUCKY, MASSACHUSETTS, PENNSYLVANIA AND VIRGINIA, AND THE DISTRICT OF COLUMBIA,

Plaintiffs In Intervention,

vs.

STATE OF NEW YORK,

Defendant.

On Bill of Complaint

AMENDED COMPLAINT IN INTERVENTION OF THE PLAINTIFF-INTERVENOR STATES OF TEXAS, ARIZONA, COLORADO, CONNECTICUT, IDAHO, MINNESOTA, NEW MEXICO, OREGON, SOUTH CAROLINA, TENNESSEE, WISCONSIN, AND THE COMMONWEALTH OF VIRGINIA

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The States of Texas, Arizona, Colorado, Connecticut, Idaho, Minnesota, New Mexico, Oregon, South Carolina, Tennessee, Wisconsin, and the Commonwealth of Virginia ("States"), Plaintiffs in Intervention, by and through their

Attorneys General, file this Amended Complaint in Intervention and allege as follows:

I. JURISDICTION

1. The original jurisdiction of this Court is invoked under Article III, Section 2 of the Constitution of the United States and Section 1251 of Title 28 of the United States Code.

II. PENDING ACTION

2. On May 31, 1988, this Court granted the Motion for Leave to File Complaint by Plaintiff State of Delaware ("Delaware") invoking the original jurisdiction of the Court to resolve a controversy between Delaware and Defendant State of New York ("New York") as to which State is entitled to claim and take possession of certain unclaimed intangible personal property held by securities brokerage firms incorporated in Delaware.

3. On February 21, 1989, the Court granted the Motion for Leave to File Complaint in Intervention by the State of Texas ("Texas"). The Texas Complaint also made subject to

this suit certain additional unclaimed intangible personal property held by the Depository Trust Company.

4. On March 30, 1993, the Court granted the Motions of the States of Alabama, Alaska, Arkansas, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, North Dakota, Oklahoma, South Dakota, Utah, Vermont, Washington, West Virginia and Wyoming, and the Commonwealths of Kentucky and Pennsylvania, for Leave to File Complaint in Intervention. These Complaints expanded the scope of this action to include unclaimed intangible property held by all brokerage firms, however incorporated, and by banks and other nonbrokerage firm intermediaries.

5. On March 30, 1993, the Court granted the Motions to intervene of the States of Arizona, California, Colorado, Connecticut, Idaho, Maryland, Michigan, Minnesota, Nebraska, New Mexico, North Carolina, Ohio, Oregon, Rhode Island, South Carolina, Tennessee, and Wisconsin, the Commonwealths of Massachusetts and Virginia and the District of Columbia.

6. On June 8, 1993, in Litigation Management Order #6, the Special Master granted leave to all parties to file amended pleadings within thirty days. In accordance with the Order, the States hereby jointly amend their several Complaints filed earlier with the Court.

III. CLAIM OF PLAINTIFFS IN INTERVENTION

7. The States seek a determination of their rights to certain unclaimed intangible personal property, referred to as "Distributions" as defined in paragraph 8 below, which comes into being and acquires its character as unclaimed property in the context of securities transactions.

8. "Distributions" consist of unclaimed dividends, profits, principal, interest, and other payments on or with respect to securities, and securities representing any of the foregoing, held or formerly held by brokerage firms, banks, depositories, clearinghouses for the settlement of trades in securities, and other nonbrokerage firm intermediaries (collectively "Intermediaries"). The Distributions constitute unclaimed intangible personal property held or formerly held by

Intermediaries because the Intermediaries do not or did not know the identities or addresses of the beneficial owners of the Distributions and thus do not or did not know to whom to transmit them.

9. New York has taken possession of Distributions as to which it is not entitled and as to which the States are entitled to recover from New York because either (a) under this Court's primary rule the last known addresses of the owners of said Distributions are in their respective States, or (b) if there is no last known address, under this Court's backup rule those Distributions were taken by New York from Intermediaries incorporated in the respective intervenor States.

10. The States further claim entitlement to recover from New York such Distributions taken by New York as to which there is no last known address and which were held by Intermediaries not incorporated in any State, according to equitable principles determined or to be determined by the Court.

11. Alternatively, the States claim entitlement to recover pursuant to any ruling of the Court in this case an undetermined portion of Distributions taken by the State of New York.

PRAYER FOR RELIEF

WHEREFORE, the States pray:

1. That judgment be entered for that portion of the Distributions to which each State is entitled under applicable principles of law, plus prejudgment interest at the prevailing rate; and

2. Such other and further relief as this Court deems just and proper.

Respectfully submitted,
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